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C O N F I D E N T I A L ASUNCION 000037

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L/PM FOR THOMAS HEROLD, DOD FOR MICHAEL MACMURRAY (ISA/WHA)  
AND LTC DANIEL MCDONALD (ISA/WHA), NSC FOR JOSE CARDENAS,  
SOUTHCOM FOR POLAD

E.O. 12958: DECL: 01/02/2027  
TAGS: [KTIA](#) [MARR](#) [MASS](#) [MOPS](#) [PGOV](#) [PREL](#) [PA](#)  
SUBJECT: PARAGUAY: GUIDANCE ON NEGOTIATING A SOFA

REF: A. STATE 3985  
    [B.](#) 06 ASUNCION 1195  
    [C.](#) 06 ASUNCION 1158  
    [D.](#) 10/24/06 MERZ/READ EMAIL  
    [E.](#) 06 ASUNCION 1023  
    [F.](#) 06 ASUNCION 1020

Classified By: DCM Michael J. Fitzpatrick; Reasons 1.4(b),(d)

1) (U) Action Request. See para. 5.

2) (C) SUMMARY: Post shared draft SOFA text stressing the importance we attach to securing privileges and immunities identified in the text to maintain and strengthen U.S.-Paraguayan military cooperation. Senior GOP officials signaled serious interest in forging an agreement, suggesting they would like to see the President send up to Congress a draft U.S. agreement together with a request to extend the Argentine and Brazilian agreements. The President has not opined on this approach, but if he decides to back it he would likely want to make the case Paraguay is extending the same privileges and immunities to all and expect them to look similar. GOP representatives conveyed specific concerns about elements contained in our text that are not reflected in the Argentine/Brazilian agreements. Post requests guidance that will enable us to protect our redlines and address GOP concerns to the extent possible - thus giving our SOFA text a chance to win the necessary Presidential and Congressional support. END SUMMARY.

[13.](#) (C) Vice-President advisor Juan Facetti and the new Commander of the Armed Forces Bernardino Soto both expressed strong interest in renegotiating a new agreement with the U.S. on military cooperation. According to Facetti, Vice-President Castiglioni would like President Duarte to send up a new draft U.S. agreement together with extension of the expired Argentine and Brazilian agreements (see ref D) to Congress when it reconvenes in March. The President made the decision to reject in October 2006, the U.S. draft agreement, provided last summer on the basis of a mixture of bad advice, domestic political concerns, and regional pressure. If he were to reconsider, it would likely only be on the basis he could make the argument Paraguay is extending the U.S. privileges and immunities comparable to what Argentina and Brazil receive in their agreements, an argument that generally sells well to Congress.

[14.](#) (C) In meeting with POL Chief, Facetti and MFA lawyer Ernesto Velasquez suggested using the Argentine/Brazilian agreements as the broad framework for a U.S. agreement, cutting out those articles they considered superfluous and/or

folding in those provisions we need to see. They maintained this would allow the VP to make the case to the President that the U.S. agreement, while comparable to the Argentine/Brazilian agreements, is more comprehensive and ultimately better. More specifically they made the following points:

-- The Argentine/Brazilian agreements are significantly shorter and thinner in terms of the privileges and immunities they speak to directly. "Technicians" ) vs. "troops" who would presumably be armed and require a separate Senate authorization to enter -- are accorded the immunities and privileges accorded to administrative and technical personnel of the respective Embassies. To the extent U.S. personnel enter unarmed, they too could be considered "technicians."

-- The Argentine/Brazilian agreements make no reference to specific exercises. Rather they cover military cooperation more broadly occurring over a defined period of time (five years). This approach provides maximum flexibility to schedule exercises without having to go back to the Paraguayan Congress.

-- The U.S. SOFA text articulates a variety of privileges relating to tax exemption. According to MFA lawyer Velasquez, these privileges are already accorded by definition to individuals accorded A&T status and/or attached to the U.S. Embassy by virtue of existing legislation elaborating privileges accorded to diplomatic missions. Facetti and Velasquez questioned whether the U.S. needed to stipulate these privileges again in our SOFA, concerned that by doing we draw attention of President and Congress to a significant point of departure with the Argentine/Brazilian agreements.

-- The Argentine/Brazilian agreements stipulate that technicians shall bear passports and visas accorded to technical and administrative staff. Our SOFA text stipulates U.S. personnel can enter with U.S. identification. This distinction will not be lost on Congress. Facetti and Velasquez asked if we could look at stipulating U.S. personnel would enter with a passport and a visa as required under Paraguayan law.

-- The Argentine/Brazilian agreements stipulate that joint operations involving "troops" vice "technicians" will require separate Senate authorization. It also stipulates that such exercises will be commanded by the Paraguayan Armed Forces Commander. POL Chief flagged this would be problematic for the U.S. Facetti and Velasquez are confident Paraguay's Congress will insist this is matter of sovereignty. On the understanding U.S. military personnel entering Paraguay for activities envisioned for the immediate future fall into the category of technicians and not troops, we could seek to avoid this debate altogether by stipulating we will seek, as appropriate, authorization from the Senate that speaks to this issue if/when we look to bring in troops (e.g. for a Fuerzas Comando or New Horizon exercise). Ultimately, as a workaround, Facetti and Velasquez queried whether we could live with language that would allow/commit the Paraguayan Commander to name a U.S. counterpart to jointly share command responsibilities.

-- The Paraguayans signaled some sensitivity about the question of access to the radio spectrum. While we have never addressed it before in prior agreements, we have never had a problem acquiring the kind of access we need. They were concerned raising it formally in an agreement that goes before Congress will only give opponents one more pretext to go after our agreement.

-- MFA lawyer Velasquez conveyed sensitivity about the extension of A&T privileges and immunities to U.S. government contractors. He signaled some flexibility on the question of tax exemption for contractors but said Paraguay would have a problem with according to contractors immunities traditionally accorded to government officials assuming administrative and technical functions.

15. (C) COMMENT AND ACTION REQUEST: The Vice-President is seeking to convince the President to reconsider submitting a U.S. agreement to Congress at the same time they seek an extension of the expired Argentine and Brazilian agreements. The VP's advisor has proposed we consider using, or at least working off, the framework of the Argentine/Brazilian agreements so the VP could make the case to the President and to Congress that they are comparable. He suggested we look at cutting out the stipulation of privileges already accorded in other agreements or folding in those provisions we need into the framework established by the Argentine/Brazilian agreements. Post requests Department provide guidance as regards redlines on the approach and points flagged by the GOP above. End Comment and Action Request.  
CASON